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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/723,077 | 11/26/2003 | Abraham Albenda | 03399/LH | 7872 |
| 1933 | 7590 | 08/11/2006 | EXAMINER | |
| FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708 | | | HOGE, GARY CHAPMAN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3611 | |

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/723,077 | ALBENDA, ABRAHAM | |
| | Examiner Gary C. Hoge | Art Unit 3611 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 May 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8, 10-12, 14-20, 22, 23, 26, 27 and 29 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-8, 10-12, 14-20, 22, 23, 26, 27 and 29 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 6, 17 and 19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 17, 2005.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5, 7, 8, 12, 14, 20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens (2,631,046) in view of Anderson (2,142,547) and Schirer (6,155,325).

See Figs. 8-11. Stephens discloses a display device comprising a unitary, rigid sheet comprising a left center panel 15, a right center panel 16, a spine panel 19 arranged between and pivotally connected to both the left and right center panels, a left side panel 17 pivotally connected to the left center panel 15 and having a smaller width than a width of the left center panel 15 (see Figs. 10 and 11), and a right side panel 17 pivotally connected to the right center panel 16 and having a smaller width than a width of the right center panel 16 (see Figs. 10 and 11), and wherein the width of the left side panel is such to enable the left side panel to be positioned entirely alongside the left center panel, the width of the right side panel is such to enable the right side panel to be positioned entirely alongside the right center panel, and the

spine panel has a width smaller than the left and right center panels and which provides for a separation between the left and right center panels upon inward pivoting of the left and right center panels sufficient to accommodate the thickness of the left and right side panels when the left and right side panels are positioned alongside the left and right center panels (see Fig. 11). However, it is not known what material Stephens contemplates for the sheet. Because it is within the level of ordinary skill of a worker in the art to select from among known materials on the basis of their suitability for the fabrication of a given device, and because Anderson teaches that a sheet being formed from opposed front and rear substantially planar layers of material connected by parallel ribs to define cavities (i.e., cardboard) would be suitable for the fabrication of a sheet of the type disclosed by Stephens, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the sheet disclosed by Stephens from cardboard, as taught by Anderson, as a matter of choice in design, based on such factors as cost and availability of the materials to the designer.

Further, Stephens does not disclose how he makes the "weakened portions" about which the panel folds. Anderson teaches that it was known in the art to create a separation line (see Fig. 3) opposite a fold line in a cardboard blank, in order to fold the cardboard. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the folds in the device disclosed by Stephens with a separation line opposite a fold line, as taught by Anderson, in order to fold the cardboard. It is noted that with a live hinge of this sort, each panel will have a portion that is substantially flat such that when the panels are not folded about the vertically extending fold lines, a flat surface is provided for the display of objects across all the panels. This is clear from Figs. 3 and 7.

Further, Stephens does not disclose a horizontally extending fold line to separate the sheet into vertical sections and enable the vertical sections to pivot about a horizontal axis. Schirer teaches that it was known in the art to provide a foldable display panel with a horizontally extending fold line, "for storage and transport" (col. 3, line 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the panel disclosed by Stephens with a horizontal fold line, as taught by Schirer, in order to reduce the size of the folded panel for storage and transport.

Regarding claim 14, see col. 4, lines 16-21.

Regarding claim 8, Stephens discloses the invention substantially as claimed, as set forth above. However, Stephens does not disclose scoring the intact layer. Schirer teaches that it was known in the art to score cardboard in order to make it easier to fold. It would have been obvious to one having ordinary skill in the art at the time the invention was made to score the intact layer of the cardboard disclosed by Stephens, as taught by Schirer, in order to make it easier to fold the cardboard.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens (2,631,046) in view of Anderson (2,142,547) and Schirer (6,155,325) as applied to claim 3 above, and further in view of Tobin (5,129,069).

Stephens discloses the invention substantially as claimed, as set forth above. However, the corners of the sheet do not appear to be rounded. Tobin teaches that it was known in the art to round the corners of a cardboard blank (see Fig. 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to round the corners of the blank

disclosed by Stephens, as taught by Tobin, in order to eliminate sharp corners that might cause injury.

1. Claims 10, 11 and 26, 27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens (2,631,046) in view of Anderson (2,142,547) and Schirer (6,155,325), as applied to claim 1, above, and further in view of Wright (2002/0072598).

Stephens discloses the invention substantially as claimed, as set forth above. However, the separation lines are perpendicular to the ribs, rather than parallel to them. Wright teaches that it was known in the art to align a separation line parallel to the ribs of a cardboard blank. It would have been obvious to one having ordinary skill in the art at the time the invention was made to align the separation lines disclosed by Stephens parallel to the ribs of the cardboard blank, as taught by Wright, as an obvious matter of choice in design.

2. Claim 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens (5,129,609) in view of Anderson (2,142,547) and Schirer (6,155,325), as applied to claim 14, above, and further in view of Gardner (5,775,949).

Stephens discloses the invention substantially as claimed, as set forth above. However, the device disclosed by Stephens uses tape to maintain the device in a folded condition. Gardner teaches that it was known in the art to provide a Velcro®-type fastener to maintain a folding device in a folded condition. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the folding device disclosed by Stephens with a Velcro®-type fastener, as taught by Gardner, in order to enable repeated, non-destructive storage of the device in a folded condition.

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3. Claims 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens (5,129,609) in view of Anderson (2,142,547) and Schirer (6,155,325), as applied to claim 1, above, and further in view of Hanna (4,531,564).

Stephens discloses the invention substantially as claimed, as set forth above. However, Stephens does not disclose attaching a second panel above the first panel. Hanna teaches that it was known in the art to attach a second panel above a first panel, in order to make a taller overall assembly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use pegs, as taught by Hanna, to mount a second panel to the panel disclosed by Stephens, in order to make a taller overall assembly.

Response to Arguments

4. Applicant's arguments filed May 16, 2006 have been fully considered but they are not persuasive.

Regarding claims 1, 27 and 29, Applicant states that these claims "are amended to include the feature of the front planar layer having a portion on each panel which is substantially flat such that when the panels are not folded about the vertically extending fold lines, a flat surface is provided for the display of objects across all the panels." This point has been addressed above.

Further, Applicant states that "claims 1, 27 and 29 are also amended to include the feature of claim 13 (now canceled)." This feature was rejected previously in view of the teachings of Shirer, and it is rejected again above.

Regarding Stephens, Applicant states that "weakened portion 19 appears to include several crimps which precludes [sic] it from having a flat front surface." However, as noted

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above, Stephens has been rejected in view of the teachings of Anderson, and that combination includes modifying the hinge to use the hinge disclosed by Anderson, which does have flat surfaces on either side of the fold line.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gary C Hoge
Primary Examiner
Art Unit 3611

gch